

FUTURE DEVELOPMENT OF CO-OPERATIVES IN VICTORIA

The preceding chapters of this report have dealt with the philosophy, history, current position and potential of the co-operative movement in Victoria. The framework has been set within which recommendations were made by MACC concerning the future development of co-operation in Victoria.

In this chapter we will consider what policies and strategies should be adopted to deal with the following areas:

- (a) Government role.
- (b) Co-operative organisation.
- (c) Co-operative legislation.
- (d) Education and training.
- (e) Finance.
- (f) Trade unions.
- (g) Transitional arrangements
- (h) Sector priorities for co-operative development.

The policies and strategies are based on a number of key propositions.

The first is that future co-operative development should be based on co-operative philosophy. The essence of that philosophy is equality, mutuality and autonomy. The recommendations adopted seek to reflect and reinforce these values.

Second, the major characteristic of the co-operative movement in Victoria is its diversity. Co-operatives are involved in a wide range of activities. There are many old, well established co-operatives and an increasing number of smaller co-operatives struggling for financial viability or recognition. There is as a consequence a diverse range of needs and practices. The strategies adopted seek to respect the diversity of the movement while trying to protect and sustain the co-operative principles and philosophy.

MACC has resisted the temptation to treat co-operatives as just another form of small business or as just another way of organising finance. Looked at from such a perspective the co-operative principles are seen as a hindrance to effective organisation. In our view, the application of these principles and the attempt to effectively provide jobs, low cost food, housing and goods and services in a democratic, non-hierarchical way is in fact the greatest challenge facing co-operatives and the greatest benefit that co-operatives can offer.

The recommendations proposed by MACC also reflect our belief that government has an important role to play in encouraging co-operative development.

MACC's policies and strategies recognise that the co-operative movement in Victoria is in need of revitalisation. The traditional rural base of the co-operative movement is strong but static, and the emerging co-operatives, including housing, food, worker, and sustainable community, require assistance from government if they are to expand and develop.

GOVERNMENT ROLE

Policies

Further development of the co-operative movement in Victoria would seem to hinge on government attitudes towards it.

In his book, "Co-operatives in the Year 2000", the late A.F. Laidlaw, stated that the role of government in co-operation should be "to encourage, befriend and sometimes assist with financial support, but never dominate, direct or try to manage".

The relationship between the government and the co-operative movement needs to be based on a clear statement of government support for the co-operative sector and recognition that it is clearly distinguishable from both the private and public sectors.

Co-operatives have social as well as economic objectives which ideally suit them to play a major part in the Social Justice Strategy. Their ability to democratically provide for the needs of their members, gives co-operatives a unique ability to devolve decision-making to the actual workers, consumers and producers of services and products. Promotion of co-operative development would not only fit in with the Government's commitment to industrial democracy, but also its pursuit of a more equitable society.

There are basically four different policies which governments can adopt towards the co-operative movement:

- (a) Government plays no role in the co-operative movement other than providing it with the necessary legal basis for registration and granting some minor privileges such as tax reduction. This attitude of government pre-supposes a strong co-operative movement.
- (b) Government takes a degree of active interest in the co-operative movement by providing some basic facilities, assistance and incentives through measures in fiscal, economic and/or agricultural policy, while at the same time, refraining from exerting control over or interference with co-operatives.
- (c) Government takes a real part in organising and controlling co-operatives. Special sections in the relevant Ministries or a special department are responsible for the implementation of government policy in this area, creating a State-inspired co-operative movement.
- (d) Government not only supports the co-operative movement but directly participates in it and positively discriminates in favour of co-operatives.

The first two approaches are common in free market economies where co-operatives have reached a relatively sophisticated level of development. The latter two approaches are common to centrally-planned economies; in countries where co-operatives are the

main vehicle for economic development; or in countries where the co-operative movement is at a formative stage.

Much of Victoria's co-operative movement can still be considered as in a formative stage. On the other hand, the rural co-operatives, the co-operative housing societies and credit co-operatives are well-organised, each having their own sector association.

Herein lies the dilemma which has to be addressed in seeking government assistance. Uneven levels of development of different types of co-operative mean there are different requirements for government support, financing, education and training, legislation, research and promotion.

Historically the co-operative movement in Australia has asserted and maintained an independent stance, distancing itself from government.

This view is no longer put as strongly, but concern for maintaining independence from government was expressed by all co-operative sectors during MACC's consultation on the appropriateness and forms of assistance that government should provide to co-operatives.

Until recently, government has taken no particular interest in co-operation apart from providing it with a legal basis for registration, and providing some unco-ordinated support for food, worker and rental housing co-operatives. Such an approach would no longer seem appropriate given the fragmented nature of Victoria's co-operative movement. Greater government support and facilitation would seem essential if the co-operative movement is to unite and spread into other sectors of the economy.

As Michel Rocard, the French Minister for Agriculture, has said, government must provide the roads, the traffic signals, and the rules of the road, but it cannot drive the car. Where co-operative development is controlled by governments, there is a danger they will cease to be autonomous enterprises and will simply become extensions of State public services, totally dependent on government for funding and direction.

In establishing a clearer relationship between government and the co-operative movement, MACC believes four key considerations need to be recognised as underpinning the relationship.

- (a) Governments will actively support co-operative development only if it is consistent with their own programs and priorities.
- (b) Co-operatives are organisations whose autonomy and democratic management are critical to their success and government support should not subvert that autonomy.
- (c) Co-operatives must accept responsibility and be accountable for support provided by government.

- (d) The support provided by government should assist co-operative development in a manner which is consistent with co-operative principles and practice.

Once it has considered the report, the Government should issue a statement outlining its level of commitment to the co-operative movement, and where it believes co-operatives fitted into its Economic and Social Justice strategies.

RECOMMENDATION 1

The Government should provide a clear statement of support for co-operative development, including the basis on which it will encourage the development of co-operatives and co-operation.

RECOMMENDATION 2

In providing support to co-operative development where it is consistent with the Government's programs and priorities, the Government should:

- (a) Assist co-operative development in a manner which is consistent with co-operative principles and practice;
- (b) Recognise that co-operatives are organisations whose autonomy and democratic management are critical to their success and that government support should not subvert that autonomy.

RECOMMENDATION 3

Co-operatives should be accountable for support provided by government.

Strategies—

Economic Strategy

In early 1984, the Victorian Government launched its economic strategy for the State's next ten years. Titled "Victoria—The Next Step—Economic Initiatives and Opportunities for the 1980's", the main aim of the economic strategy was identified as maximising growth of income and employment in Victoria over the medium to long term.

It also identified the principal overall aim of the Government as being "to develop in Victoria a community which possesses prosperity and a high standard of living. This prosperity should be based not only on acquisition of goods but also on participation in a vigorous intellectual, social and cultural life within the community".

Four factors set out in the Economic Strategy have relevance for the co-operative movement:

1. *Industrial relations in Victoria.* Included in the Government's industrial relations policy is a particular emphasis on the introduction of industrial democracy programs. Worker co-operatives are based on the practice of industrial democracy.
2. *Worker co-operatives as a specific initiative.* The Government has identified the establishment of worker co-operatives as a specific initiative in its macro-economic policy. The NSW program has demonstrated there is potential in converting companies into worker co-operatives. The Government has pledged its continuing support to the establishment of worker co-operatives—subject to their capacity to achieve economic viability, their commitment to co-operative principles and industrial democracy, and meeting award wages and conditions.
3. *Victoria's industrial skills.* Victoria's industrial base accounts for a more than proportional share of employment in manufacturing, and it has a more than proportional share of the country's skilled personnel in the scientific, engineering and technical areas as well as management and administration.

This competitive edge is worth noting by the co-operative movement, both from the view of attracting interested co-operators and finding skilled co-operative trainers.

4. *Victoria's diverse agricultural base.* Victoria's rural sector is well developed. With less than 3% of the land mass of Australia, Victoria contributes well over 20% of Australia's rural output. The rural sector is the major contributor to the State's and the nation's export earnings.

The co-operative movement is well established in the agricultural sector of the State in the marketing/producer co-operatives and in the large trading co-operatives. By cutting out the middleman, farmers could exercise greater control over the price and delivery of their produce.

Co-operatives could be an important part of Victoria's economic base and their potential role needs to be subject to further consideration. This will require the development of specific strategies for co-operative sectors in the context of the Government's Economic Strategy. The Victorian Co-operatives Council should, therefore, work with the co-operative associations in developing strategies for the respective sectors.

RECOMMENDATION 4

The economic potential of co-operatives should be further developed in

the Government's Economic Strategy with the assistance of the proposed Victorian Co-operatives Council.

In the development of government policy, MACC believes the Government should establish mechanisms which give co-operatives the opportunity to provide input equal to that afforded to traditional public and private enterprise.

The lines of communication between government and the co-operative movement have in the past been weak. MACC believes that its proposals in the next section calling for the establishment of a separate Office of Co-operatives and a more representative advisory body to be known as the Victorian Co-operatives Council, could, if implemented, greatly enhance consultation between government and the co-operative movement.

RECOMMENDATION 5

Consultative mechanisms between government and the co-operative sector should include regular access by sector associations.

The very difference of co-operatives from traditional forms of organisation and the smallness of most sectors, frequently means that government programs and policies are not open to them. Although the silence in relation to co-operatives is usually unintended, it cannot disguise that inadvertent discrimination against co-operatives is widespread in not only the preparation of government policies, but also in drafting legislation and the applications of regulations at all levels of government, including local government.

To take some examples:

- Departmental directives often preclude community groups from lodging government funds in credit co-operatives;
- Members of co-operatives are not eligible for grants under the First Home Owners Scheme;
- Proposed tax changes will mean that the dividends of some rural co-operatives will be taxed twice;
- Failure to consider worker co-operatives for government contracts.

Many institutions in society regard co-operatives with suspicion. Governments could provide a lead by making it clear in the guidelines for any program that co-operatives can participate.

With the introduction of the Office of Co-operatives and a Victorian Co-operatives Council, MACC expects that better communication between government and the co-operative movement will prevent most

future oversights—particularly if the Office and the VCC take it upon themselves to review government legislation, policies and regulation on a regular basis.

RECOMMENDATION 6

The Government should ensure that in drafting legislation and regulations, preparing policies and program guidelines and in all its areas of operation, there is no discrimination or barriers obstructing the participation of co-operatives.

Social Justice Strategy

In March 1985 the Victorian Government released a social justice statement committing itself to develop services in the State where they complied with the principles of equity, access, participation, civil rights, integration, cultural relevance, employment, creativity and leisure, quality services, and efficiency.

The principles of the co-operative movement can be married to all of the above. Implicit in any social justice program is the need to provide a mechanism for the redistribution of resources. Co-operatives provide a non-hierarchical means of involving groups of consumers in making decisions for themselves within an appropriate legal structure. Decisions in a co-operative are made through democratic group processes, rather than being concentrated in a few hands in the traditional management style.

One specific area of the social justice statement—the anti-poverty strategy—has particular relevance for the co-operative movement. The social justice statement specifically recognises the potential of co-operatives to empower individuals and groups and ensure that programs and services are more responsive and participatory.

The anti-poverty component focuses on understanding and overcoming poverty. It aims to give low income people more resources and a bigger say in decisions that affect them. The broad objective of the anti-poverty strategy is to put the elimination of poverty on the State Government's agenda for the next 10 years. Specifically the strategy will:

- (a) Identify and monitor poverty in Victoria;
- (b) Co-ordinate State programs and activities that affect poverty and low income people;
- (c) Set realistic objectives for the elimination of poverty and report each year on their achievements;
- (d) Set a vigorous reform and public education agenda and a program for working with the Federal Government to ensure those reforms;

- (e) Support and work with community groups in the poverty and income security areas, especially groups of low income people themselves.

The program has two components—a \$6 million Community Credit Program and a \$4 million Poverty Action Program.

The Community Credit Program will provide direct advice and financial services to low income people and help them develop financial skills in a co-operative and participatory setting. It is proposed that with extra funds credit co-operatives will be able to expand the services they provide such as bill-paying facilities, financial counselling, debt re-scheduling, reinsurance and loan guarantees. Grants of up to \$100,000 per year are to be provided to community based credit unions, community co-operatives and similar organisations helping low income people.

Food co-operatives have also been marked for special treatment under the social justice statement. A co-operative warehouse and development centre are to be funded.

The Premier's Department is currently working on developing the social justice statement as government policy.

RECOMMENDATION 7

In the development of the Government's Social Justice Strategy, the potential for using co-operatives as a major vehicle for the implementation of the Strategy should be further explored and the proposed Office of Co-operatives and Victorian Co-operatives Council should be invited to contribute to the Strategy.

Government grants

There was some controversy among the MACC working parties about the availability of grants to co-operatives.

The key question revolves around whether grants lead to dependency.

MACC agrees with the working parties that except where a co-operative is delivering wholly or partially a government service, on going subsidies should not be available to individual co-operatives.

In general, MACC believes that recurrent government expenditure may be necessary to maintain a properly functioning infrastructure for the co-operative movement, but that grants should not be used to prop up individual co-operatives. Loans should be the preferred method for raising capital.

In the short term, grant funding will be required to stimulate the development of associations within co-operative sectors. MACC

assumes such funding would decrease over time as the aim would be for associations to become largely self funding through a combination of membership levies and fee for service.

Given the reluctance of traditional financial institutions to loan and the inherent high risk of many worker and low income servicing co-operatives, government grants will be a necessary component of financial packages for these co-operatives. In particular, seeding grants need to be readily available through specified sector associations to help newly formed co-operatives gain the breathing space and acquire the management expertise necessary to ensure their co-operative's long term survival.

Start up grants should be available to pre-co-operative groups so as they have access to resources and educational facilities which could help them put together their co-operative model. Grants should also be available for research projects.

Grants should be used to ensure, at the very least, subsidy neutrality within a sector. For instance, capital grants to common equity rental co-operatives will establish them on an equitable footing with other forms of housing tenure, in particular home ownership. This is not to say that positive discrimination in favour of co-operatives will not, at times, be appropriate.

Funding of co-operatives should take account of the type of co-operative and the differences in the structure of co-operatives from other forms of organisation.

Special attention, for instance, needs to be given to the provision of venture capital through a combination of establishing a pool for loan funds and making government guarantees available.

RECOMMENDATION 8

- (a) The Victorian Co-operatives Council should advise the Government on the types of co-operatives it should assist, and the Government should determine the types, degree and method of assistance at an early date.
 - (b) Grant funding of individual co-operatives by government should be of a short term nature with the provision of loans in the long term being made available, particularly in relation to venture capital.
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ORGANISATION

Policies

MACC believes that the prime responsibility for co-operative development resides with co-operatives themselves and the structures established to encourage co-operative development should reflect and reinforce this responsibility. One of the cornerstones of co-operative philosophy is a commitment to democratic management structures. All MACC working parties agreed that there needed to be “bottom up” approach to co-operative development.

Sector associations

MACC believes that encouraging co-operative development through the establishment and utilisation of sector associations is the model best suited to meeting the diverse needs of Victoria’s co-operative movement.

The co-operative sectors vary in their interpretation and application of co-operative philosophy and principles. Their objectives, structures and activities are different enough to justify structures for co-operative development being based on these differences.

Co-operative specific, education, business and financial assistance mechanisms are critical. Countries in which co-operatives are the strongest have well-developed co-operative support agencies. Furthermore these agencies have been created and are managed by the co-operatives themselves and are operated on co-operative principles.

The differences between co-operatives and other enterprises—private and public—have been outlined earlier in this report. These differences must be respected when examining support mechanisms for co-operative development.

Channelling assistance for co-operatives solely through job creation funds and traditional small business programs, for instance, would undermine co-operative development. Business support for co-operatives should come, primarily, from co-operatively managed support services.

While agreeing that co-operatives should be able to have access to the support provided to small business by the Small Business Development Corporation, MACC considers that such a body should not be responsible for co-operative development, nor seek to take on that role.

To achieve sustained co-operative development, based on co-operative principles, the co-operative movement must develop its own capacity to service the educational and financing needs of its members. These services should be controlled by sector associations.

At present few co-operative specific services are available, though some recommendations on this matter are made later in this report. As a result, financing, education and training have been provided for co-operatives from either government departments, TAFE colleges, or the private sector. While this support from outside the co-operative movement will continue to be necessary for the next few years, it is not a desirable situation.

As well as respecting the differences between co-operatives and other enterprises, co-operative support structures need to respect the differences between co-operatives. This is also a feature of co-operative development in countries where the co-operative movement is strong. In Italy, for example, the three co-operative federations each have sector associations for worker, service and housing co-operatives, which are all resourced separately.

RECOMMENDATION 9

Prime responsibility for co-operative development should lie with co-operatives themselves in conjunction with their sector associations.

MACC agrees with the working parties that encouragement needs to be given to the development of sector associations for the different types of co-operatives.

Government grants should be available for the formation of new sector associations. Advice on submissions for sector association funding would most properly come from the proposed government advisory body on co-operation, the Victorian Co-operatives Council.

Although government support for the new co-operative sector associations will be necessary initially, in the long term they are expected to be self funding, similar to the existing sector associations. As sectors will grow at different rates, the capacity of each to become self funding will need to be reviewed and negotiated separately through the Office of Co-operatives.

RECOMMENDATION 10

The Government should provide seeding grants to establish viable sector associations as the basis for co-operative development in Victoria.

While allowing for free association, MACC believes that any encouragement from either the Government or the Victorian

Co-operatives Council should be directed at minimising the number of associations in each sector. The advantages of this approach are:

- (a) Ensuring solidarity rather than conflict and fragmentation;
- (b) Achieving economies of scale in secretariat support and resourcing delivery;
- (c) Providing a single auspice body for co-ordination of government program management or the development of a sector education service;
- (d) Rationalising representation by the different types of co-operatives on the Victorian Co-operatives Council.

RECOMMENDATION 11

In order to promote co-operation among co-operatives, the development of a single, peak association per sector should be encouraged.

Development agencies

Sector associations could become the catalyst for development of new models of co-operatives within their sector. If, as MACC recommends, associations assume overall responsibility for the development of their sector, it follows that any development agencies should grow from and be accountable to sector associations.

This goal of sector specific development by co-operatives themselves at arms length to government is argued strongly by the Worker Co-operative Working Party in their feasibility study into the need for an association of worker co-operatives, and in the "Democracy Through Education" report to MACC. Further, it is a model already being pursued by the Victorian Food Co-operative Study Group (VFCSG) and the Common Equity Rental Co-operative Sub-Committee.

In their November, 1985, pilot project report "Development of the Food Co-operative Sector: Appropriate Resource Provision", the VFCSG quotes United States experience to demonstrate that "continued commitment and enthusiasm are dependent upon people maintaining active control and a sense of ownership. Therefore, the role of government agencies and professionals needs to be one of support and education rather than imposition" (P.92). The VFCSG is seeking funding to establish a development centre which would be run by a management committee comprised of representatives from the food co-operative sector, educators and those experienced in community development.

In attempting to establish a community housing sector alternative to that managed by the State Ministry of Housing, community housing groups have paid close attention to designing an infrastructure which is

both at arms length to government and is controlled by the common equity rental co-operatives themselves, which are to form the basis of the community housing sector. From the start, community housing group representatives on the Common Equity Rental Co-operative (CERC) Sub-Committee insisted they have majority representation before they would agree to taking part in drafting guidelines for the CERC program. With the first four common equity rental co-operatives now ready for funding, the Sub-Committee has invited representatives from these co-operatives to join the Sub-Committee. The long term goal is to form an association of common equity rental co-operatives which would take over the bulk of the management of the CERC program.

RECOMMENDATION 12

Development agencies proposed for co-operative sectors should be managed by sector associations.

Federations

A major consequence of MACC's recommendation to place primary focus on sector associations is the need to reconsider the position of the existing Co-operative Federation of Victoria (CFV) and the basis of a continued role for a federation.

The Co-operative Federation of Victoria's structure reflects the historical development of co-operatives in Victoria. Its members are predominantly producer, trading and company co-operatives. Housing societies and credit co-operatives are also members via their sector associations. Few emerging co-operatives are members.

Although its services are equally available to members, the CFV is significantly reliant on subscription income from a small number of the larger, co-operative companies.

MACC believes that the creation of a new all-encompassing federation could be construed as unwarranted "top down" interference in the internal organisation of the co-operative movement. Further, such a move is unnecessary given the sector association developmental model being pursued.

MACC considers that co-operative development, by way of financial, training and other support, should be undertaken by co-operative sector associations. For this reason, and the necessity to avoid confusing the roles of providing specific development assistance, the Co-operation Federation of Victoria should not be involved in the development of co-operative sectors.

In the short term, MACC is recommending that the peak, co-operative bodies should be recognised as the sector associations. It should be pointed out at this stage that none of this affects the rights of primary co-operatives and associations to have direct access to their relevant government Ministers or departments.

RECOMMENDATION 13

The Government should liaise directly with peak associations, including the Co-operative Federation of Victoria.

Victorian Co-operatives Council

MACC believes there is a need for a more comprehensive consultative mechanism to facilitate the relationship between the co-operative movement as a whole and the Government. In essence there are two specific problems that need to be addressed:

- (a) There is a need for an effective forum where government and co-operatives can discuss matters which affect the whole co-operative movement and assess the overall direction of co-operative development in Victoria;
 - (b) There is no focal point within the Government itself for dealing with such issues or to effectively advise the Government on the general issues of co-operative development.
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RECOMMENDATION 14

A new consultative mechanism between the Government and the co-operative movement should be established. Known as the Victorian Co-operatives Council (VCC), it should advise the Minister responsible for co-operatives on all matters relating to the co-operative movement as a whole.

Office of Co-operatives

The Co-operative Federation of Victoria has for many years sought recognition from the State Government for designation of a Minister as responsible for co-operatives. The Minister for Housing has for some years administered the Co-operation Act, but this has been an anomalous accident of history rather than a rational administrative arrangement.

Although a separate Minister is not justified, MACC believes that a separate Ministerial portfolio for co-operatives should be created, as is the case in New South Wales.

The Minister for Co-operatives should administer the Act, and be responsible for the Victorian Co-operatives Council, and an Office of Co-operatives. The Office of Co-operatives should be headed by a Director of Co-operatives, who would replace the Registrar.

The Office would assist in co-operative development through the establishment of a Co-operative Development Section. This section should replace the present Research and Policy Branch of the Registry of Co-operatives and the Co-operative Development Unit in the Department of Labour. MACC is of the opinion that the co-ordination of all government development of emerging and existing co-operatives should be vested with the Co-operative Development Section.

Subject to the approval of the Minister, the Co-operative Development Section would carry out research as requested by the Victorian Co-operatives Council.

RECOMMENDATION 15

- (a) There should be a separate Ministerial portfolio (but not necessarily a separate Minister) for co-operatives.
 - (b) The present Registry and other areas of co-operative administration should be consolidated within an Office of Co-operatives. The Registrar should be replaced with a Director of Co-operatives.
 - (c) The Research and Policy Branch of the Registry of Co-operatives and the Co-operative Development Unit of the Department of Labour should be replaced by a Co-operative Development Section within the Office of Co-operatives which would co-ordinate all government development concerning co-operatives and provide secretarial support to the Victorian Co-operatives Council.
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Strategies

Few sector associations exist in Victoria. If they are to become the vehicle for future co-operative development, encouragement will be needed from both the Victorian Co-operatives Council and the Office of Co-operatives.

Short term, government grants will need to be made available to initially staff and establish the sector associations. Given their pivotal role in co-operative development, government funding to establish sector associations requires high priority. Once the Victorian Co-operatives Council is established, one of its first tasks should be to consider how sector associations are to be established and the level of funding required.

Sector associations

MACC is of the opinion that eight new sector associations should be encouraged to form. The different co-operative sectors in Victoria identified by MACC were:

- (a) *Credit* This is a well developed sector with two sector associations, the Victorian Credit Co-operative Association and the Southern Credit Co-operative Association. No further sector association required.
- (b) *Housing* Different types of co-operatives within this sector will require their own associations. Their objectives are not compatible. Equity housing co-operatives already have a long standing association in the Federation of Housing Societies. Emerging rental housing co-operatives are in the process of developing a sector association. Community settlement co-operatives plan to form an association.
- (c) *Trading* An inoperative trading association exists. The emerging food co-operatives have plans to form an association. The established trading co-operatives should be encouraged to form a further association, or activate the existing inoperative association.
- (d) *Producer* Only one highly specific sector association exists, the Artificial Breeders and Herd Improvement Association, which is a member of the Co-operative Federation of Victoria. Producer co-operatives also require encouragement to form an association.
- (e) *Community* Two types have the potential to form associations, community-based child care and aboriginal. Both fall within the consumer co-operative model in that the services they provide are democratically managed by the consumers.
- (f) *Worker* Funded by the then Department of Employment and Industrial Affairs, the Worker Co-operative Working Party has been investigating the formation of an association for worker co-operatives funded under the Co-operative Development Program.
- (g) *Company* These are the 16 co-operatives which did not elect to transfer from the Companies Act when the Co-operation Act was first promulgated in 1953. Many of them are large, rural producer enterprises. They do not have a sector association, but are well represented within the Co-operative Federation of Victoria, which could continue to act as their representative body in the immediate future.

Of the eight, potential sector associations identified, only the producer and trading co-operative associations are not in the planning stages. Like the co-operative companies, producer and trading co-operatives are well represented in the Co-operative Federation of Victoria, and they may well prefer in the future to continue to use the CFV rather than establish sector associations. If this proves the case, MACC proposes

that the CFV should be treated as the sector association for trading and producer co-operatives.

The opportunity, however, needs to be offered to the producer and trading co-operatives to form their own sector associations.

RECOMMENDATION 16

- (a) Formation of the following sector associations should be encouraged by the Victorian Co-operatives Council and through the provision of short term, government grants:
- Producer co-operatives;
 - Trading co-operatives;
 - Rental housing co-operatives;
 - Community settlement co-operatives;
 - Worker co-operatives under the auspice of the Worker Co-operative Working Party;
 - Food co-operatives under the auspice of the Victorian Food Co-operative Study Group;
 - Community-based, child care centres under the auspice of Community Child Care;
 - Aboriginal co-operatives.
- (b) Until such time as effective producer and trading sector associations are established, the Co-operative Federation of Victoria should continue to represent their sector interests.

Registered associations

As has already been discussed, MACC intends to seek to minimise fragmentation of the co-operative movement by encouraging as few as possible associations to be formed per sector.

In pursuit of this goal, MACC proposes that the VCC and the government should only provide official recognition to one association per sector, unless another group of co-operatives can demonstrate that it represents fundamentally different interests.

MACC does not recommend legislating to prevent a group of five or more co-operatives of the same type forming an association. This would be contrary to the deregulatory thrust of this report and the first co-operative principle of enabling free and open association. Any five co-operatives may form an association, but such groups shall be required to register with the VCC before they will be granted official recognition to carry out approved service delivery or negotiate with government.

Associations which fail to gain official registration with the VCC should still be able to gain legal status comparable to that currently available under the Co-operation Act, 1981.

RECOMMENDATION 17

- (a) There should be only one association officially registered under the Act for each co-operative sector, unless another group of co-operatives can justify its registration on the grounds that it represents substantially different interests. Registration should be determined by the Director of Co-operatives in consultation with the Victorian Co-operatives Council.
 - (b) Membership of registered associations by individual co-operatives should be voluntary.
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Once established, sector associations should become the prime initiators in the development of new and existing co-operative types within their sector. Associations registered with the VCC would become eligible to take on the role of a development agency. This process is already occurring with common equity rental co-operatives and should be encouraged in the near future for worker and food co-operatives, (see further the section on Transitional arrangements).

Registered associations would co-ordinate the resourcing needs of their sectors. This would include using the services of educational agencies such as T.A.F.E. colleges, C.A.E.'s and universities, in liaison with the proposed Co-operative Education and Training Authority.

The registered associations would work with the Government departments responsible for resourcing their sector or with a specific policy responsibility in the co-operatives area of activity.

For instance, the association for rental housing co-operatives would deal directly with the Ministry of Housing; and the Victorian Credit Co-operative Association would continue its direct relationship with the responsible department.

It would be important for registered associations to upgrade the image and knowledge of the co-operative movement both to their members and the outside public.

In supporting co-operative associations, special attention will have to be given to the expertise of the staff. They will need skills appropriate to the operation of co-operatives in their sector, the expertise to transfer those skills, and the ability to intervene effectively and quickly.

Associations should also have a capacity to encourage the development of consortiums—that is, groups of co-operatives joining together for marketing and trading in common. In France and Italy, for example, co-operatives are organised into consortiums such as building and public works, and printing and graphics.

RECOMMENDATION 18

Functions of a registered association should include:

- (a) Promoting the development of its co-operative sector, including the management of sector specific development agencies;
 - (b) Establishing an education committee to facilitate the research, design and development of educational and training programs to suit the needs of the sector; and the use of appropriate, existing educational institutions and systems on a regional basis for the delivery of these programs;
 - (c) Co-ordinating and negotiating government funding and support for its sector;
 - (d) Advising and negotiating with the Government and the Victorian Co-operatives Council on its co-operative sector;
 - (e) Representing its co-operative sector on the Victorian Co-operatives Council if appointed by the Minister;
 - (f) Co-ordinating business consulting services for its co-operative sector;
 - (g) Encouraging and co-ordinating economic co-operation between co-operatives.
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Federations

It is of some controversy, whether or not federations should be made up purely of associations, or should have a mix of membership consisting of primary co-operatives as well as associations. The CFV wishes to retain primary co-operatives as members, which is consistent with overseas practice and the rules of the International Co-operative Alliance.

MACC would prefer, however, that any future federations should be made up only of associations, as this would prevent conflicts and confusion in determining the relative status between primary co-operatives and associations. MACC would also prefer that if there is to be proportional voting at a tertiary level it should be based on membership rather than assets.

It is inappropriate for MACC to direct the Co-operative Federation of Victoria to take any set course of action. If it so wishes, the CFV may remain exactly as it is now. Clearly, the CFV is not representative of the co-operative movement as a whole, but this is a matter for the CFV to work through in consultation with the co-operative movement. It is no business of a government committee to lay down the law on a matter which is best left to the movement to determine.

The CFV is, however, investigating how it could become more representative. MACC believes it should be encouraged to continue this

process as a reconstituted CFV or another future federation could provide:

- (a) A forum for co-operative sectors;
- (b) A basis for economic co-operation between co-operatives and between sectors;
- (c) A focus for co-ordinated political action by co-operative sectors;
- (d) A national and international liaison body.

It needs to be recognised that the wishes of the CFV may not coincide with those of all the sector associations, which may lead to the formation of a further federation. MACC believes this should be neither encouraged nor discouraged.

A reconstituted CFV or a new federation could act as a non-government counterpart and in time take on the development role of the VCC providing the means for the co-operative movement to oversee its own development.

RECOMMENDATION 19

- (a) The Co-operative Federation of Victoria should be encouraged to change its structure and membership in order to provide a balanced representation of all co-operative sectors, and an overview of the co-operative movement as a whole.
 - (b) Further federations should be tertiary co-operatives with membership restricted to registered associations. They should be required to register under the Act, and registration should be determined by the Director of Co-operatives in consultation with the Victorian Co-operatives Council.
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Victorian Co-operatives Council

MACC believes that the Council should not have a significant financial or technical assistance resourcing role. The primary agents for co-operative development should be the sector associations and the Council will not override that role.

The purpose of the VCC will instead be to develop a long term strategic perspective on co-operative development, and balance the interests of the various sectors to provide a broad movement overview. If it is successful it will establish the framework and direction for the activities of the co-operative sector associations.

In order to achieve its role, the VCC would have the authority to require the Director of Co-operatives to provide documents and reports and appear before the Council as directed by the Council.

RECOMMENDATION 20

The functions of the Victorian Co-operatives Council should be as follows:

- (a) Advise the Government on the promotion and co-ordination of co-operative development in Victoria;
- (b) Assess the progress of the co-operative movement in Victoria;
- (c) Develop strategies for the long term development of co-operatives;
- (d) Advise on the impact of government activities on co-operative development;
- (e) Advise the Minister on assistance needed for associations to resource their co-operative sectors;
- (f) Advise the Minister and the Director on policy relating to:
 - (i) co-operative legislation review;
 - (ii) co-operative finance including grants, loans and guarantees;
 - (iii) co-operative philosophy;
 - (iv) co-operative economic, social and political factors;
 - (v) prudential regulation of co-operatives;
 - (vi) the impact of government legislation, regulations, policies and programs on co-operatives.

The bulk of the Council should consist of direct representation from the proposed co-operative sector associations.

Sector nominations would need to be put to the Minister by the associations—or names put forward by the primary co-operatives within sectors, in the absence of a sector association.

The Minister should have the power to appoint two experts. At least one of these should have financial expertise. Another should come from the Trades Hall Council, given the importance to worker co-operatives of trade union support. As there is a need to upgrade education and training programs for co-operatives, one of the government representatives could ideally have a background in education.

In appointing members to the VCC, the Minister should ensure there is a balance between large and small co-operative sectors, and ensure there is adherence to the Government's equal opportunities policies.

The Council should be convened by the Director of Co-operatives at the direction of the government-nominated chairperson or one-third of the membership. Staff of the Office of Co-operatives would provide secretarial support.

RECOMMENDATION 21

- (a) The membership of the Victorian Co-operatives Council should comprise the following:

- Representatives of government including the Director of Co-operatives 3
 - Persons other than representatives of government appointed by the Minister administering the Act, with qualification or expertise relevant to co-operatives 2
 - Persons appointed by the Minister after consultation with the co-operative sectors or associations 10
- 15

(b) In appointing representatives to the Council, the Minister should have due regard to the balance between large and small sectors, representation proportional to individual membership and the balance between sexes.

Office of Co-operatives

In the past, the Registry has been confined principally to statutory regulation.

To this primary role has been added in recent years the further role of facilitator in the development of co-operatives. The Registry and the then Department of Employment and Industrial Affairs (DEIA) have been at the forefront of the development of government policy on co-operatives, and both have provided administrative support to MACC. The Registry is actively encouraging the formation of child care co-operatives. Its Research and Policy Branch staff have produced reports which have stimulated interest in the development of sustainable communities and common equity rental co-operatives. A series of model rules for different sectors is in the process of development.

Registry inspectors no longer have a purely regulatory role. They now play a key role in facilitating co-operative development through the provision of counselling and advice both to groups wishing to form co-operatives, and on request to established co-operatives.

Without the support of DEIA, many of MACC's activities could not have been undertaken—the funding of the co-operative conference, for instance, and the “Democracy Through Education” report. Courses developed through Preston TAFE for worker co-operatives by DEIA have set the pace for co-operative education generally in Victoria.

Ideally, MACC believes that all government co-ordination of co-operative development should be brought together under a Co-operative Development Section within the new Office of Co-operatives. This would mean, for instance, better feedback between those carrying out research and development and the inspectors who have day to day contact with co-operatives. It would allow for improved information exchange and a more comprehensive overview of co-operative development needs.

Co-ordination of co-operative development does not mean the Office would be directly involved in program management. Co-operative Development Section staff should assist in establishing sector associations and the development of agencies for worker and food co-operatives. The four staff positions of the past Co-operative Development Unit should be transferred to the Office of Co-operatives, specifically to initiate worker and food co-operative development.

RECOMMENDATION 22

The functions of the Office of Co-operatives should be as follows:

- (a) Co-ordination of co-operative development by government;
 - (b) Consulting government departments and assisting sector associations in liaison with these departments;
 - (c) Assisting in the development of autonomous sector associations as requested;
 - (d) Carrying out research and policy development as directed by the Minister and the Victorian Co-operatives Council;
 - (e) Secretarial support to the Victorian Co-operatives Council;
 - (f) Provision of advice and counselling to both submitting and existing co-operatives;
 - (g) Provision of advice on government funding of co-operative sectors;
 - (h) Registration of co-operatives;
 - (i) Monitoring compliance with the Co-operatives Act.
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As with the Bureau of Youth Affairs and the Registry of Incorporated Associations, the Office of Co-operatives should move into a building with a shopfront location which would not only upgrade the Registry's image, but also make it more accessible. A major complaint of working parties concerned the remoteness of the current Registry.

The new Office requires a distinct, separate identity in keeping with the thrust of this report that co-operation offers a third, more democratic and equitable way of establishing a business, delivering a service or making a product than its traditional public and private enterprise alternatives.

The Office would not necessarily have to be in the central business district, but it should be within the inner suburbs and close to public transport.

RECOMMENDATION 23

The Office of Co-operatives should have a separate, shopfront location.

LEGISLATION

Policies

A key factor identified as constraining co-operative development in Victoria has been the legislative framework established by governments.

A Co-operation Act was proclaimed in 1953 and rewritten in 1958 and again in 1981. Under the present Act, there are five types of primary co-operatives (trading, producer, community advancement, community settlement and credit), secondary co-operatives or associations and tertiary co-operatives or federations. It is administered by the Minister for Housing although no public recognition is given of this in the portfolio title.

The Act does not cover all co-operatives. Seventeen co-operative companies were incorporated before 1953 under the Companies (Victoria) Code and elected not to transfer to the Co-operation Act when it was first enacted. There are other companies incorporated under the Companies (Victoria) Code which are substantially co-operative in character.

The Registry of Co-operatives also has responsibility for 29 societies incorporated under the Industrial and Provident Societies Act; 1,290 co-operative housing societies incorporated under the Co-operative Housing Societies Act; and 13 rental housing co-operatives incorporated under the Housing Act. Many groups have incorporated under the Associations Incorporation Act 1981, some of these being co-operative in character.

Given this situation, it is not surprising that many of those who made submissions to MACC considered that the existing legislative framework has failed to establish a clear and distinct identity for the co-operative sector.

The legislation also lacks sufficient expression and support for co-operative principles and is excessive in its specific requirements. As a result many organisations which do not actually apply co-operative principles are registered and many of the new co-operatives have remained unregistered or have incorporated under other legislation. The Co-operation Act is therefore inappropriate in many ways and is due for a complete review.

The diversity of co-operative organisations and activities, and particularly the distinction between co-operatives engaged in commercial activity and those which are not, raises the issue as to whether a separate Act for co-operatives is desirable or necessary.

It could be argued that legislation should provide a framework for activities, rather than protecting organisational forms. Government

seeks to protect the public interest through legislation, an objective which could be just as well served by existing regulation of the activities which co-operatives currently engage in.

In the absence of a Co-operation Act, currently registered co-operatives would then transfer to either the Companies (Victoria) Code, the Associations Incorporation Act, or other legislation. Relevant sections providing for co-operative practices could be inserted into these Acts.

The disadvantage of such a proposal is essentially that co-operatives would tend to be no longer distinctive entities and would be adrift in a variety of other Acts.

While legislation does not make co-operation and co-operators, it could define and protect co-operative character and structure by incorporating co-operative philosophy, principles and practices within it. Co-operative legislation provides legal recognition that co-operatives are different from other enterprises. Without acknowledging those differences and giving them legal recognition, co-operative development cannot be encouraged.

There is a direct relationship between co-operative legislation and the structure and character of co-operatives. Where legislation is too vague, as at present, this allows for the registration of pseudo-co-operatives that neither understand, accept nor practice co-operative principles.

The Act must be sufficiently specific in its requirements to project a coherent sense of co-operative principles and practice, while at the same time allowing diversity in practice arising from specific needs or constraints. There is general agreement that the existing legislation does not provide an adequate framework to meet those requirements.

MACC accepts the argument that if there is no separate Act, there can be no recognition of co-operatives as a distinct sector.

The proposed changes to the law relating to co-operatives are considered so fundamental that the Co-operation Act 1981 should be repealed in its entirety.

The new Act should be a de-regulatory and an enabling instrument to allow for the registration, administration and accountability of co-operatives as well as providing a consultative process with the Government and sector co-operative associations.

Appropriate prudential standards should be developed and maintained and government regulation of co-operatives should continue.

The appropriate framework for regulation as well as consultation are to be provided for in the legislation.

RECOMMENDATION 24

There should be a new Co-operatives Act in place of the present

Co-operation Act which defines and protects co-operative identity and structures by incorporating co-operative philosophy, principles and practices within the legislation.

RECOMMENDATION 25

The new Act should have the following objectives:

- To promote co-operative philosophy, principles, practices and objectives;
 - To protect the interests of co-operative members;
 - To protect the interests of the public in the operations and activities of co-operatives;
 - To enable the development of an infrastructure for the co-operative sector consisting of primary co-operatives, associations and federations.
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A common plea of the MACC working parties was to simplify the language and structure of the new Co-operatives Act. In writing the new Act, it should be kept in mind that many community groups will be using it without the aid of a lawyer.

In pursuit of the goal of making the Act accessible to lay people, cross referencing to other legislation should be minimised.

RECOMMENDATION 26

The Co-operatives Act should be written in plain English and have a simple structure.

The consultations with the co-operative movement identified that many co-operative sectors wish to have some flexibility in the interpretation of the principles and were reluctant to accept full and specific legislative interpretations of the principles. Both worker and the food co-operatives, for example, argued that interpretation of the principles into practice should be left to each co-operative and its rules.

MACC concurs with that view. The divergent organisational needs of co-operatives have to be recognised and the objective of having a simple and clear Act could not be met by a series of specific provisions to cover all possible circumstances.

RECOMMENDATION 27

While a co-operative's rules must be consistent with the co-operative principles and the Act, the rules should permit diversity within and between sectors.

MACC considers that compliance with the spirit of the legislation should be based on greater self-regulation, more consultation with the co-operative movement and effective review procedures.

In permitting greater self-regulation, MACC considers that the legislation should encourage self-management in the co-operative sectors and be more consistent with co-operative philosophy.

In recommending this approach MACC is aware of the need to clearly illustrate and explain what is meant by self-regulation. Self management or self-regulation should not be confused with an absence of constraint and regulation, and it should not be taken to override the interests of co-operative members and the public.

The Government has a responsibility to ensure that co-operatives are complying with the provisions of the Co-operatives Act and undertake whatever monitoring and investigation are necessary to ensure this compliance.

RECOMMENDATION 28

The legislation should encourage greater self regulation.

While allowing for diversity in the application of the principles, MACC believes that the fundamental difference between a co-operative and other forms of organisation should be a co-operative's commitment to a democratic structure of one vote per person, regardless of the size of a person's shareholding.

This primacy of people over capital ensures that ownership and control of a co-operative is divided equally among its members, rather than being vested with those who have the most money invested, as is the case in a company; or hold executive positions, as is the case in a public enterprise.

Whether the democratic system is representative or participatory should be a matter of individual co-operative choice, but in order to substantially comply with co-operative principles, the system chosen must be based on one vote per member.

Traditionally, both in Australia and overseas, many secondary and tertiary level co-operative organisations have used pluralistic systems of voting. The Co-operative Federation of Victoria, for instance, operates under a system of limited pluralistic voting on the grounds that this takes into account large discrepancies in membership and asset size between affiliates. Further, co-operative companies, incorporated under the Companies (Victoria) Code have argued that as capital intensive

businesses they should continue to be permitted to operate a system of limited pluralistic voting, even as primary co-operatives.

MACC is not prepared to compromise the principles to the extent desired by the co-operative companies, but accepts that a limited system of pluralistic voting could apply for secondary or tertiary level co-operative organisations.

In taking such a course, MACC is complying with the rules laid down by the International Co-operative Alliance for its affiliates. The wording of the following recommendation is based on Rule 8 of the International Co-operative Alliance.

RECOMMENDATION 29

- (a) The legislation should recognise that members of primary co-operatives are to enjoy equal rights of voting (one member, one vote) and participation in decisions affecting their co-operatives.
- (b) In other than primary co-operatives, the administration should be conducted on a democratic basis in a suitable form and guidelines for this purpose should be developed by the Victorian Co-operatives Council.

MACC believes that a new Co-operatives Act should provide for greater consultation with co-operatives and associations in determining whether the rules comply with the Act and enable the co-operative to incorporate. Differences in practice between co-operative sectors should be accommodated in the rules.

As has been noted a number of co-operatives are incorporated under separate legislation.

MACC does not believe it is appropriate to make it compulsory for those co-operatives to be brought under a single Co-operation Act.

MACC agreed that the new Co-operatives Act should provide incentives for co-operatives registered under other legislation to transfer. With this in mind MACC commenced discussions with the co-operative companies for the purpose of encouraging their registration under a new Co-operatives Act. MACC's recommendation for legislative provision for the removal of dry shareholders would address a significant problem that could threaten the continuity of some co-operative companies, (see next section, Legislation-Strategies).

The Federation of Housing Societies of Victoria in its submission to MACC considered that the existing Co-operative Housing Societies Act was working well and recommended that it remain in its present form. The Federation was not opposed to incorporation into a more

general act provided that a separate and independent section was provided for co-operative housing societies and that it did not affect their status as the major lenders for government funds and the providers of institutional funds.

It has already been proposed by the Government that the Industrial and Provident Societies Act be repealed. It would be appropriate for those industrial and provident societies which are co-operative in nature to transfer to the Co-operatives Act, and those which are not could transfer to the Companies (Victoria) Code. MACC recommends that consultation should commence with these societies to encourage their transfer to the Co-operatives Act.

As a matter of convenience, provisions in relation to rental housing co-operatives were written into the Housing Act when that Act was amended in 1983. In registering, most rental housing co-operatives have used the Housing Act, although common equity rental co-operatives have preferred to draft their model rules as a community advancement society under the Co-operation Act 1981. Clearly, the provisions concerning rental housing co-operatives in the Housing Act should be repealed and these co-operatives transferred to the new Co-operatives Act.

RECOMMENDATION 30

- (a) The Act should be written in full consultation with all the co-operative sectors, and where possible should be couched broadly enough to encourage all co-operatives to register or remain registered under it, but without dilution of basic principles.
 - (b) Transfer of registration from other legislation should not be compulsory.
 - (c) In view of the impending repeal of the Industrial and Provident Societies Act, the Victorian Co-operatives Council should hold discussions with the industrial and provident societies as soon as possible.
 - (d) Part VI of the Housing Act concerning rental housing co-operatives should be transferred to the new Co-operatives Act.
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Strategies

MACC did not undertake to rewrite the Co-operation Act 1981. The Legislative Review Committee of the Ministry of Housing has considered some changes, and the VCC should continue that work. However some clear policy directions for the legislation and some more specific proposals have resulted from MACC's work.

To meet the first objective identified for co-operative legislation—to promote co-operative philosophy, principles, and practices—MACC considers that the Co-operatives Act should contain a definition of co-operative and a statement of co-operative principles. The current legislation does not include these provisions.

MACC considers that a definition and a statement of the co-operative principles would help provide a clear identity for the co-operative sector and ensure that organisations incorporated under the Act adhere to co-operative principles and practices. Consultation with the co-operative movement identified wide support for including such provisions in a new Co-operatives Act.

RECOMMENDATION 31

(a) The following definition of a co-operative should be included in the Act:

“A co-operative is a group of people who voluntarily come together on a basis of equality, self help and mutual aid, with the purpose of jointly promoting their socio-economic well-being in a democratic manner, while adhering to the principles of co-operation incorporated within the Act.”

(b) The word “co-operative” should be used as a noun and the former descriptive term “co-operative society” should no longer be used.

In examining the future of the co-operative movement for the International Co-operative Alliance in 1979, Dr Alex Laidlaw identified two major defects with the current international principles:

- (a) They have tried to raise current practice to the level of principle instead of identifying the principle itself; and
- (b) They seem to be based chiefly on consumer co-operatives and do not apply as well to other types, for example agricultural, worker and housing co-operatives.

In recommending the insertion of the co-operative principles into a Co-operatives Act, MACC has amended slightly the formulation of the principles agreed to in 1966 by the International Co-operative Alliance. MACC considers this statement respects the integrity of the traditional statement, while ensuring their relevance to current Victorian conditions.

RECOMMENDATION 32

The following interpretation of the co-operative principles should be included in the Co-operatives Act. The reformulated words have been

italicised. There should be a requirement for substantial compliance with the principles as determined by the Director of Co-operatives in consultation with the Victorian Co-operatives Council.

- Membership of a co-operative should be voluntary and available without artificial restriction or any social, political, racial or religious discrimination, to all persons who can make use of its services and are willing to accept the responsibilities of membership *as set out in the rules*.
- Co-operatives are democratic organisations which embody and encourage membership control. *The basis for this is equal rights of voting—one member, one vote. Democracy in co-operatives must be ongoing and participative. Their affairs should be administered in a manner agreed by the members and accountable to them.*
- *Share capital's primary objective is to serve a co-operative's activities, rather than provide a basis for individual return to members. Shareholders should receive a limited return on their capital, if any.*
- The economic results arising from the operations of a co-operative belong to the members of that co-operative and should be distributed in such a manner as would avoid one member gaining at the expense of others. This may be done by decisions of the members as follows: (a) by provision for development of the business of the co-operative; (b) by provision of common services; or (c) by distribution among the members in proportion to their transactions with the co-operative. *Transactions are the member's dealings with the co-operative.*
- All co-operatives should make provision for the education of their members, officers, and employees and of the general public, in the co-operative principles and techniques both economic and democratic.
- *Co-operation is an alternative to competition. There should be mutual support between co-operatives and co-operative sectors and communities at the local, national and international levels; this is the foundation of the co-operative movement and should be demonstrated on a practical level.*

Not every contingency can possibly be foreseen, making it essential that the Registrar retains some discretionary powers. MACC supports the retention of the Registrar's discretionary powers so long as they are subject to consultation with the proposed Victorian Co-operatives Council and there is a right of appeal. Guidelines for the use of discretionary powers need to be established by the VCC taking note of precedence and questions of natural justice.

In drafting new legislation, the Registrar's existing powers should be reviewed, with a view to achieving greater involvement of the co-operative sectors in ensuring compliance with the Act. Other powers of the Registrar, relating to prudential standards, merger, administration, winding-up, Treasurer's guarantees and offences should remain largely intact.

RECOMMENDATION 33

- (a) There should be a review of all the Registrar's discretionary powers.
 - (b) Any use of major discretionary powers should be subject to consultation with the proposed Victorian Co-operatives Council, which will prepare appropriate guidelines.
 - (c) Decisions by the Director of Co-operatives, Victorian Co-operatives Council and the Credit Co-operatives Reserve Board should be subject to appeal to a duly constituted tribunal.
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Co-operatives should, however, be able under the Act to make their own arrangements as far as internal organisation of the co-operative is concerned. Specific provisions on such matters should be minimised.

The emerging food, worker, housing and sustainable community co-operatives, are committed to participatory democratic systems of decision-making which may involve the whole of a co-operative's membership. Participatory democracy is appropriate to these co-operatives given their existing scale of operations and form of work process.

As the emerging co-operatives grow in scale, there will be a need to introduce some form of representative democracy, for democratic reasons and in the interests of management efficiency. This should not mean, however, that membership participation would become minimal. If the commitment to participatory democracy is sustained, a representative system could be devised to maximise accountability to the general membership, as is the case with the large worker owned enterprises in Mondragon, Spain, and Italy.

It should be the prerogative of co-operatives to determine whether or not to have a board of management, a committee, or a collective structure. The procedures adopted for the management of the co-operative should be determined within the rules of the individual co-operative by the members of that co-operative.

MACC believes sector associations should play a part in developing model rules for their sector. Within sectors there could well be uniformity in practice. Credit co-operatives, for instance, will require added fiduciary responsibilities given that each member is also a depositor.

Development Section within the new Office of Co-operatives in consultation with sector associations, or in their absence, in consultation with representatives from each sector. To ensure the model rules substantially comply with co-operative principles, they should be subject to approval by the Victorian Co-operatives Council.

As well as incorporating co-operative principles as set out in the Act, there should be an obligation placed on co-operatives to spell out the rights and responsibilities of their members in their rules. Members, for instance, should have the right to participation and information; there should be a clear disputes resolving procedure; and how the membership would control officers of the co-operative should be detailed.

The co-operative principles of open membership, democratic control and co-operative education provide a natural basis for the realisation of equal opportunity. MACC recommends that all co-operative sectors should develop equal opportunity policies and practices.

RECOMMENDATION 36

- (a) New model rules should be drawn up for each co-operative sector by the Office of Co-operatives in consultation with sector associations, or in their absence, in consultation with sector representatives. The new model rules should be subject to the approval of the Victorian Co-operatives Council.
- (b) The co-operative principles as set out in the Act should be incorporated into the model rules for each sector.
- (c) There should be an obligation placed on co-operatives to spell out the rights and responsibilities of their members within sector model rules.
- (d) All co-operative sectors should develop equal opportunity policies and practices which should be reflected in sector model rules.

In devising model rules, specific provisions should be made in relation to such controversial issues as how surplus should be distributed and what should happen to residual assets on winding up.

In keeping with the move towards self-regulation, MACC does not believe the legislation should prescribe what happens to surplus—except in relation to the need for co-operatives to build up reserves to ensure they are not undercapitalised, (see further the section on Finance in this chapter).

MACC is also of the opinion that in order to avoid asset stripping, bonus shares need to be issued in proportion to members' transactions with the co-operative.

Co-operatives principally developed by government funding or subsidies have a responsibility to the wider community, and MACC believes this should be reflected in their rules by a prohibition against the distribution of surplus to individual members. In such co-operatives, surpluses should be directed towards co-operative development, as was indeed argued by rental and worker co-operatives in their respective MACC working parties.

The differing co-operative practices in relation to the distribution of surplus are:

- (a) *Proportional use* Surplus is distributed among members through the issuing of bonus shares or cash rebate;
- (b) *Co-operative development* Surplus is applied to the development of the co-operative and/or the provision of common services for members.

Residual assets approaches and practices also vary considerably:

- (a) *No distribution* In a number of European countries, there are legislative prohibitions banning the distribution of residual assets to members;
- (b) *Work related* Residual assets could be distributed to worker members only in proportion to work contributed;
- (c) *Share related* Residual assets distributed to shareholders in proportion to their shareholdings. This is common company practice and is not prohibited under co-operative principles;
- (d) *Patronage* In Western Australia, residual assets are distributed according to patronage over the previous five years.

RECOMMENDATION 37

In relation to distribution of surplus, capital gains, asset revaluation or residual assets, the following guidelines should apply in their incorporation into sector model rules:

- (a) Surplus belongs to members for them to distribute according to their rules. There should, however, be no cash distribution of surplus to members until an agreed level of reserves has been accrued, as specified in a co-operative's rules, and co-operatives principally developed by government funding should not be permitted to make any surplus distribution to individual members;
- (b) In the distribution of capital gains or asset revaluation, the choice should be up to the co-operative whether to build up reserves or issue to members bonus shares or cash rebates in proportion to their transactions with the co-operative;
- (c) Distribution of residual assets should be covered in the rules, and

subject to approval by the Director of Co-operatives. Co-operatives principally developed by government funding should not be permitted to distribute residual assets to individual members.

The legislation needs to provide for the removal of “dry” shareholders or non-active members of a co-operative. MACC considers that co-operatives require a permanent base of capital to pursue a viable operation, and that it should be protected by provisions in the Co-operatives Act.

The aim of this policy is to prevent control of the co-operative transferring to persons who are not directly involved in its operations.

The majority on MACC were opposed to legislative prohibition on the distribution of residual assets to members and the automatic removal of “dry” shareholders feeling that these should be a matter for self regulation—except where a co-operative was in receipt of government funding. A minority dissented, arguing that without such legislative provisions, co-operatives could be vulnerable to takeover, asset stripping and closure.

The minority said that in the absence of legislative models, co-operatives could become an anti-trade union form of privatisation and exhibit the degeneration that characterises co-operatives in countries which do not have appropriate legislation.

RECOMMENDATION 38

- (a) The Act should enable a co-operative to buy back shares from inoperative members provided that at any one time it does not hold more than 5% of its paid up capital. Inoperative members should be defined as those not having had transactions with the co-operative for two years without the authority of the managing body of the co-operative.
 - (b) In the case of worker co-operatives, it should be automatically provided that cessation of employment by the co-operative leads to cessation of membership.
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Another recommendation with particular relevance to the co-operative companies concerns the definition of co-operative as contained within the Companies (Victoria) Code.

MACC is of the opinion that the definition in the Code should be made consistent with that proposed for the new Co-operatives Act. Negotiations should begin with the Attorney-General immediately.

RECOMMENDATION 39

The Attorney-General should be requested to amend the definition of “co-operative” in the Companies (Victoria) Code in a similar fashion to that being considered for the new Co-operatives Act.
